

HOUSE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1877

AN ACT

To repeal sections 143.225, 143.261, 143.431,
143.451, 143.811, 144.190, 313.820, 313.822,
RSMo, and to enact in lieu thereof eleven new
sections for the sole purpose of establishing
and funding the schools of the future fund,
with an emergency clause.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

Section A. Sections 143.225, 143.261, 143.431, 143.451,
143.811, 144.190, 313.820, 313.822, RSMo, are repealed and eleven
new sections enacted in lieu thereof, to be known as sections
32.068, 32.069, 136.320, 143.225, 143.431, 143.435, 143.451,
143.811, 144.190, 313.820, and 313.822 to read as follows:

32.068. 1. The state treasurer shall calculate an annual
rate of interest pursuant to this section and provide the
calculated rate of interest to the director of revenue as
determined by subsection 2 of this section.

2. Each calendar quarter the state treasurer shall
calculate the annual rate of interest. The rate of interest
shall be equal to the previous twelve-month annualized average

1 rate of return on all funds invested by the state treasurer,
2 rounded to the nearest one-tenth of one percent. The state
3 treasurer shall provide such calculated rate to the director of
4 revenue not later than thirty days prior to the end of each
5 calendar quarter. The director of revenue shall apply the
6 calculated rate of interest to all applicable situations during
7 the next calendar quarter after the release of the calculated
8 rate of interest.

9 3. Beginning January 1, 2003, the director of revenue shall
10 apply the calculated rate of interest as determined by this
11 section to all applicable situations.

12 32.069. 1. Notwithstanding any other provision of law,
13 interest shall be allowed and paid on any refund or overpayment
14 at the rate determined by section 32.068 only if the overpayment
15 is not refunded within one hundred twenty days from the latest of
16 the following dates:

17 (1) The last day prescribed for filing a tax return or
18 refund claim, without regard to any extension of time granted;

19 (2) The date the return, payment or claim is filed; or

20 (3) The date the taxpayer files for a credit or refund and
21 provides accurate and complete documentation to support such
22 claim.

23 2. The commissioner of administration shall, on an annual
24 basis, estimate the amount of any additional state revenue
25 received pursuant to this section and shall transfer an

1 additional amount to the schools of the future fund created in
2 section 313.822, RSMo.

3 136.320. 1. Notwithstanding the provisions of any other
4 law to the contrary, with respect to taxes administered by the
5 department of revenue, an amnesty from the assessment or payment
6 of all penalties, additions to tax, and interest shall apply with
7 respect to unpaid taxes reported and paid in full from August 1,
8 2002, to September 30, 2002, regardless of whether previously
9 assessed, except for penalties, additions to tax, and interest
10 paid before August 1, 2002. The amnesty shall apply only to
11 state tax liabilities due but unpaid on or before December 31,
12 2001, and shall not extend to any taxpayer who at the time of
13 payment:

14 (1) Is a party to any criminal investigations or to any
15 civil or criminal litigation that is pending in any court of the
16 United States or this state for nonpayment, delinquency, or fraud
17 in relation to any state tax imposed by the state of Missouri;

18 (2) Is a party to an appeal with the administrative hearing
19 commission; or

20 (3) Is a party to a protest with the department of revenue.

21 2. Upon written application by the taxpayer, on forms
22 prescribed by the director of revenue, and upon compliance with
23 the provisions of this section, the department of revenue shall
24 not seek to collect any penalty, addition to tax, or interest
25 which may be applicable. The department of revenue shall not

1 seek civil or criminal prosecution for any taxpayer for the
2 taxable period for which the amnesty has been granted.

3 3. Amnesty shall be granted only to those taxpayers who
4 have applied for amnesty within the period stated in subsection 1
5 of this section, who have filed a tax return for each taxable
6 period for which amnesty is requested, who have paid the entire
7 balance due within sixty days of approval by the department of
8 revenue, and who agree to comply with state tax laws for the next
9 three years from the date of the agreement. No taxpayer shall be
10 entitled to a waiver of any penalty, addition to tax, or interest
11 pursuant to this section unless full payment of the tax due is
12 made in accordance with rules and regulations established by the
13 director of revenue.

14 4. If a taxpayer elects to participate in the amnesty
15 program established pursuant to this section as evidenced by full
16 payment of the tax due as established by the director of revenue,
17 that election shall constitute an express and absolute
18 relinquishment of all administrative and judicial rights of
19 appeal. No tax payment received pursuant to this section shall
20 be eligible for refund or credit.

21 5. Nothing in this section shall be interpreted to disallow
22 the department of revenue to adjust a taxpayer's tax return as a
23 result of any state or federal audit.

24 6. All tax payments received as a result of the amnesty
25 program established pursuant to this section shall be deposited

1 in the schools of the future fund created pursuant to section
2 313.822, RSMo, other than revenues earmarked by the Missouri
3 Constitution.

4 7. The department may promulgate such rules or regulations
5 or issue administrative guidelines as are necessary to administer
6 the provisions of this section. No rule or portion of a rule
7 promulgated pursuant to the authority of this section shall
8 become effective unless it has been promulgated pursuant to
9 chapter 536, RSMo.

10 143.225. 1. The director of revenue, by regulation, may
11 require an employer to timely remit the unpaid amount required to
12 be deducted and withheld by section 143.191 at the end of any
13 quarter-monthly period, only if the employer was required to
14 deduct and withhold six thousand dollars or more in each of at
15 least two months during the prior twelve months.

16 2. The director may increase the monthly requirement to
17 more than six thousand dollars or otherwise narrow the
18 application of the quarter-monthly remittance system authorized
19 by this section. The director may not require the remittance of
20 withheld taxes more often than monthly unless authorized by this
21 section.

22 3. A remittance shall be timely if mailed as provided in
23 section 143.851 within three banking days after the end of the
24 quarter-monthly period or if received by the director or
25 deposited in a depository designated by the director within four

1 banking days after the end of the quarter-monthly period.

2 4. [The unpaid amount shall be after a reduction for the
3 compensation provided by section 143.261.] The unpaid amount at
4 the end of a quarter-monthly period shall not include unpaid
5 amounts for any prior quarter-monthly period.

6 5. For purposes of this section, "quarter-monthly period"
7 means:

8 (1) The first seven days of a calendar month;

9 (2) The eighth to fifteenth day of a calendar month;

10 (3) The sixteenth to twenty-second day of a calendar month;

11 and

12 (4) The portion following the twenty-second day of a
13 calendar month.

14 6. (1) In the case of an underpayment of any amount
15 required to be paid pursuant to this section, an employer shall
16 be liable for a penalty in lieu of all other penalties, interest
17 or additions to tax imposed by this chapter for violating this
18 section. The penalty shall be five percent of the amount of the
19 underpayment determined under subdivision (2) of this subsection.

20 (2) The amount of the underpayment shall be the excess of

21 (a) Ninety percent of the unpaid amount at the end of a
22 quarter-monthly period, over

23 (b) The amount, if any, of the timely remittance for the
24 quarter-monthly period.

25 7. (1) The penalty with respect to any quarter-monthly

1 period shall not be imposed if the employer's timely remittance
2 for the quarter-monthly period equals or exceeds one-fourth of
3 the average monthly withholding tax liability of the employer for
4 the preceding calendar year. The month of highest liability and
5 the month of lowest liability shall be excluded in computing the
6 average. This subdivision shall apply only to an employer who
7 had a withholding tax liability for at least six months of the
8 previous calendar year.

9 (2) The penalty shall not be imposed if the employer
10 establishes that the failure to make a timely remittance of at
11 least ninety percent was due to reasonable cause, and not due to
12 willful neglect.

13 (3) The penalty shall not be imposed against any employer
14 for the first two months the employer is obligated to make
15 quarter-monthly remittance of withholding taxes.

16 8. Tax amounts remitted under this section shall be treated
17 as payments on the employer's monthly return required by
18 subsection 2 of section 143.221. Tax amounts remitted under this
19 section shall be deemed to have been paid on the last day
20 prescribed for filing the return. The preceding sentence shall
21 apply in computing [compensation under section 143.261,]
22 interest, penalties and additions to tax and for purposes of all
23 sections of chapter 143, except this section.

24 143.431. 1. The Missouri taxable income of a corporation
25 taxable under sections 143.011 to 143.996 shall be so much of its

1 federal taxable income for the taxable year, with the
2 modifications specified in subsections 2 and 3 of this section,
3 as [is derived from sources within] apportioned to Missouri as
4 provided in section 143.451. The tax of a corporation shall be
5 computed on its Missouri taxable income at the rates provided in
6 section 143.071.

7 2. There shall be added to or subtracted from federal
8 taxable income, the modifications to adjusted gross income
9 provided in section 143.121 and the applicable modifications to
10 itemized deductions provided in section 143.141. There shall be
11 subtracted the federal income tax deduction provided in section
12 143.171. There shall be subtracted, to the extent included in
13 [federal] Missouri taxable income, corporate dividends [from
14 sources within Missouri]. There shall be added to federal
15 taxable income any amount defined in section 143.435. The
16 commissioner of administration shall, on an annual basis,
17 estimate the amount of additional state revenue resulting from
18 the disallowance of non-Missouri source income pursuant to this
19 section and section 143.451, and shall transfer an equivalent
20 amount to the schools of the future fund created in section
21 313.822, RSMo.

22 3. (1) If an affiliated group of corporations files a
23 consolidated income tax return for the taxable year for federal
24 income tax purposes and fifty percent or more of its income is
25 derived from sources within this state as determined in

1 accordance with section 143.451, then it may elect to file a
2 Missouri consolidated income tax return. The federal
3 consolidated taxable income of the electing affiliated group for
4 the taxable year shall be its federal taxable income.

5 (2) So long as a federal consolidated income tax return is
6 filed, an election made by an affiliated group of corporations to
7 file a Missouri consolidated income tax return may be withdrawn
8 or revoked only upon substantial change in the law or regulations
9 adversely changing tax liability under this chapter; or, with
10 permission of the director of revenue upon the showing of good
11 cause for such action. After such a withdrawal or revocation
12 with respect to an affiliated group, it may not file a Missouri
13 consolidated income tax return for five years thereafter, except
14 with the approval of the director of revenue, and subject to such
15 terms and conditions as he may prescribe.

16 (3) No corporation which is part of an affiliated group of
17 corporations filing a Missouri consolidated income tax return
18 shall be required to file a separate Missouri corporate income
19 tax return for the taxable year.

20 (4) For each taxable year an affiliated group of
21 corporations filing a federal consolidated income tax return does
22 not file a Missouri consolidated income tax return, for purposes
23 of computing the Missouri income tax, the federal taxable income
24 of each member of the affiliated group shall be determined as if
25 a separate federal income tax return had been filed by each such

1 member.

2 (5) The director of revenue may prescribe such regulations
3 not inconsistent with the provisions of this chapter as he may
4 deem necessary in order that the tax liability of any affiliated
5 group of corporations making a Missouri consolidated income tax
6 return, and of each corporation in the group, before, during, and
7 after the period of affiliation, may be returned, determined,
8 computed, assessed, collected, and adjusted, in such manner as
9 clearly to reflect the Missouri taxable income [derived from
10 sources within this state] and in order to prevent avoidance of
11 such tax liability.

12 143.435. 1. As used in this section, the following terms
13 mean:

14 (1) "Affiliated group", a group as defined in Section 1504
15 of the Internal Revenue Code of 1986, as amended;

16 (2) "Intangible expenses and costs" includes:

17 (a) Expenses, losses, and costs for, related to, or in
18 connection directly or indirectly with the direct or indirect
19 acquisition, use, maintenance or management, ownership, sale,
20 exchange, or any other disposition of intangible property to the
21 extent such amounts are allowed as deductions or costs in
22 determining taxable income before operating loss deductions and
23 special deductions for the taxable year under the Internal
24 Revenue Code;

25 (b) Losses related to and incurred in connection directly

1 or indirectly with factoring transactions or discounting
2 transactions;

3 _____ (c) Royalty, patent, technical, and copyright fees;

4 _____ (d) Licensing fees; and

5 _____ (e) Other similar expenses and costs;

6 _____ (3) "Intangible property", patents, patent applications,
7 trade names, trademarks, service marks, copyrights, and similar
8 types of intangible assets;

9 _____ (4) "Interest expenses and costs", amounts directly or
10 indirectly allowed as deductions under Section 163 of the
11 Internal Revenue Code of 1986, as amended, for purposes of
12 determining taxable income under the Internal Revenue Code to the
13 extent such expenses and costs are directly or indirectly for,
14 relate to, or in connection with the direct or indirect
15 acquisition, maintenance, management, ownership, sale, exchange,
16 or disposition of intangible property;

17 _____ (5) "Related entity" includes:

18 _____ (a) A stockholder who is an individual, or a member of the
19 stockholder's family enumerated in Section 318 of the Internal
20 Revenue Code of 1986, as amended, if the stockholder and the
21 members of the stockholder's family own directly, indirectly,
22 beneficially, or constructively, in the aggregate, at least fifty
23 percent of the value of the taxpayer's outstanding stock;

24 _____ (b) A stockholder, or a stockholder's partnership, limited
25 liability company, estate, trust, or corporation, if the

1 stockholder and the stockholder's partnerships, limited liability
2 companies, estates, trusts, and corporations own directly,
3 indirectly, beneficially, or constructively, in the aggregate, at
4 least fifty percent of the value of the taxpayer's outstanding
5 stock; or

6 (c) A corporation, or a party related to the corporation in
7 a manner that would require an attribution of stock from the
8 corporation under the attribution rules of Section 318 of the
9 Internal Revenue Code of 1986, as amended, if the taxpayer owns
10 directly, indirectly, beneficially, or constructively, at least
11 fifty percent of the value of the corporation's outstanding
12 stock. The attribution rules of Section 318 of the Internal
13 Revenue Code of 1986, as amended, shall apply for purposes of
14 determining whether the ownership requirements of this
15 subdivision have been met.

16 2. For purposes of computing its Missouri taxable income
17 pursuant to section 143.431, a corporation shall add to its
18 federal taxable income any amount deducted in the calculation of
19 its federal taxable income for interest expenses and costs and
20 intangible expenses and costs directly or indirectly paid,
21 accrued, or incurred to or in connection directly or indirectly
22 with one or more direct or indirect transactions with one or more
23 related members for the taxable year.

24 3. The adjustments required in subsection 2 of this section
25 shall not apply to such portion of interest expenses and costs

1 and intangible expenses and costs that the corporation can
2 establish by the preponderance of the evidence meets both of the
3 following:

4 (1) The related member during the same income year directly
5 or indirectly paid, accrued, or incurred such portion to a person
6 who is not a related member; and

7 (2) The transaction giving rise to the interest expenses
8 and costs or the intangible expenses and costs between the
9 corporation and the related member did not have as a principal
10 purpose the avoidance of any portion of the tax due pursuant to
11 this chapter.

12 4. The director of the department of revenue shall
13 promulgate rules and regulations necessary to administer the
14 provisions of this section. No rule or portion of a rule
15 promulgated pursuant to the authority of this section shall
16 become effective unless it has been promulgated pursuant to the
17 provisions of chapter 536, RSMo.

18 143.451. 1. Missouri taxable income of a corporation shall
19 include all income [derived from sources within this state] as
20 apportioned herein.

21 2. A corporation described in subdivision (1) of subsection
22 1 of section 143.441 shall include in its Missouri taxable income
23 all income [from sources within this state], including that from
24 the transaction of business in this state and that from the
25 transaction of business partly done in this state and partly done

1 in another state or states. However:

2 (1) Where income results from a transaction partially in
3 this state and partially in another state or states, and income
4 and deductions of the portion in the state cannot be segregated,
5 then such portions of income and deductions shall be allocated in
6 this state and the other state or states as will distribute to
7 this state a portion based upon the portion of the transaction in
8 this state and the portion in such other state or states.

9 (2) The taxpayer may elect to [compute the portion of]
10 apportion income [from all sources in this state] to Missouri in
11 the following manner:

12 (a) [The] All federal taxable income [from all sources] for
13 the taxable year with the modifications specified in subsections
14 2 and 3 of section 143.431 shall be determined as provided,
15 excluding therefrom the figures for the operation of any bridge
16 connecting this state with another state.

17 (b) The amount of sales which are transactions wholly in
18 this state shall be added to one-half of the amount of sales
19 which are transactions partly within this state and partly
20 without this state, and the amount thus obtained shall be divided
21 by the total sales or in cases where sales do not express the
22 volume of business, the amount of business transacted wholly in
23 this state shall be added to one-half of the amount of business
24 transacted partly in this state and partly outside this state and
25 the amount thus obtained shall be divided by the total amount of

1 business transacted, and [the net] all federal taxable income for
2 the taxable year with the modifications specified in subsections
3 2 and 3 of section 143.431 shall be multiplied by the fraction
4 thus obtained, to determine the proportion of income to be used
5 to arrive at the amount of Missouri taxable income. The
6 investment or reinvestment of its own funds, or sale of any such
7 investment or reinvestment, shall not be considered as sales or
8 other business transacted for the determination of said fraction.

9 (3) For the purposes of this section, a transaction
10 involving the sale of tangible property is:

11 (a) "Wholly in this state" if both the seller's shipping
12 point and the purchaser's destination point are in this state;

13 (b) "Partly within this state and partly without this
14 state" if the seller's shipping point is in this state and the
15 purchaser's destination point is outside this state, or the
16 seller's shipping point is outside this state and the purchaser's
17 destination point is in this state;

18 (c) Not "wholly in this state" or not "partly within this
19 state and partly without this state" only if both the seller's
20 shipping point and the purchaser's destination point are outside
21 this state;

22 (d) For purposes of this subdivision the purchaser's
23 destination point shall be determined without regard to the FOB
24 point or other conditions of the sale, and the seller's shipping
25 point is determined without regard to the location of the

1 seller's principle office or place of business.

2 (4) For purposes of this subsection, the following words
3 shall, unless the context otherwise requires, have the following
4 meaning:

5 (a) "Administration services" include, but are not limited
6 to, clerical, fund or shareholder accounting, participant record
7 keeping, transfer agency, bookkeeping, data processing,
8 custodial, internal auditing, legal and tax services performed
9 for an investment company;

10 (b) "Affiliate", the meaning as set forth in 15 U.S.C.
11 Section 80a-2(a)(3)(C), as may be amended from time to time;

12 (c) "Distribution services" include, but are not limited
13 to, the services of advertising, servicing, marketing,
14 underwriting or selling shares of an investment company, but, in
15 the case of advertising, servicing or marketing shares, only
16 where such service is performed by a person who is, or in the
17 case of a closed end company, was, either engaged in the services
18 of underwriting or selling investment company shares or
19 affiliated with a person that is engaged in the service of
20 underwriting or selling investment company shares. In the case
21 of an open end company, such service of underwriting or selling
22 shares must be performed pursuant to a contract entered into
23 pursuant to 15 U.S.C. Section 80a-15(b), as from time to time
24 amended;

25 (d) "Investment company", any person registered under the

1 federal Investment Company Act of 1940, as amended from time to
2 time, (the act) or a company which would be required to register
3 as an investment company under the act except that such person is
4 exempt to such registration pursuant to Section 80a-3(c)(1) of
5 the act;

6 (e) "Investment funds service corporation" includes any
7 corporation or S corporation doing business in the state which
8 derives more than fifty percent of its gross income in the
9 ordinary course of business from the provision directly or
10 indirectly of management, distribution or administration services
11 to or on behalf of an investment company or from trustees,
12 sponsors and participants of employee benefit plans which have
13 accounts in an investment company. An investment funds service
14 corporation shall include any corporation or S corporation
15 providing management services as an investment advisory firm
16 registered under Section 203 of the Investment Advisors Act of
17 1940, as amended from time to time, regardless of the percentage
18 of gross revenues consisting of fees from management services
19 provided to or on behalf of an investment company;

20 (f) "Management services" include but are not limited to,
21 the rendering of investment advice directly or indirectly to an
22 investment company making determinations as to when sales and
23 purchases of securities are to be made on behalf of the
24 investment company, or the selling or purchasing of securities
25 constituting assets of an investment company, and related

1 activities, but only where such activity or activities are
2 performed:

3 a. Pursuant to a contract with the investment company
4 entered into pursuant to 15 U.S.C. Section 80a-15(a), as from
5 time to time amended;

6 b. For a person that has entered into such contract with
7 the investment company; or

8 c. For a person that is affiliated with a person that has
9 entered into such contract with an investment company;

10 (g) "Qualifying sales", gross income derived from the
11 provision directly or indirectly of management, distribution or
12 administration services to or on behalf of an investment company
13 or from trustees, sponsors and participants of employee benefit
14 plans which have accounts in an investment company. For purposes
15 of this section, gross income is defined as that amount of income
16 earned from qualifying sources without deduction of expenses
17 related to the generation of such income;

18 (h) "Residence", presumptively the fund shareholder's
19 mailing address on the records of the investment company. If,
20 however, the investment company or the investment funds service
21 corporation has actual knowledge that the fund shareholder's
22 primary residence or principal place of business is different
23 than the fund shareholder's mailing address such presumption
24 shall not control. To the extent an investment funds service
25 corporation does not have access to the records of the investment

1 company, the investment funds service corporation may employ
2 reasonable methods to determine the investment company fund
3 shareholder's residence.

4 (5) Notwithstanding other provisions of law to the
5 contrary, qualifying sales of an investment funds service
6 corporation, or S corporation, shall be considered wholly in this
7 state only to the extent that the fund shareholders of the
8 investment companies, to which the investment funds service
9 corporation, or S corporation, provide services, are resided
10 in this state. Wholly in this state qualifying sales of an
11 investment funds service corporation, or S corporation, shall be
12 determined as follows:

13 (a) By multiplying the investment funds service
14 corporation's total dollar amount of qualifying sales from
15 services provided to each investment company by a fraction, the
16 numerator of which shall be the average of the number of shares
17 owned by the investment company's fund shareholders resided in
18 this state at the beginning of and at the end of the investment
19 company's taxable year that ends with or within the investment
20 funds service corporation's taxable year, and the denominator of
21 which shall be the average of the number of shares owned by the
22 investment company's fund shareholders everywhere at the
23 beginning of and at the end of the investment company's taxable
24 year that ends with or within the investment funds service
25 corporation's taxable year;

1 (b) A separate computation shall be made to determine the
2 wholly in this state qualifying sales from each investment
3 company. The qualifying sales for each investment company shall
4 be multiplied by the respective percentage of each fund, as
5 calculated pursuant to paragraph (a) of this subdivision. The
6 product of this equation shall result in the wholly in this state
7 qualifying sales. The qualifying sales for each investment
8 company which are not wholly in this state will be considered
9 wholly without this state;

10 (c) To the extent an investment funds service corporation
11 has sales which are not qualifying sales, those nonqualified
12 sales shall be apportioned to this state based on the methodology
13 utilized by the investment funds service corporation without
14 regard to this subdivision.

15 3. Any corporation described in subdivision (1) of
16 subsection 1 of section 143.441 organized in this state or
17 granted a permit to operate in this state for the transportation
18 or care of passengers shall report its gross earnings within the
19 state on intrastate business and shall also report its gross
20 earnings on all interstate business done in this state which
21 report shall be subject to inquiry for the purpose of determining
22 the amount of income to be included in Missouri taxable income.
23 The previous sentence shall not apply to a railroad.

24 4. A corporation described in subdivision (2) of subsection
25 1 of section 143.441 shall include in its Missouri taxable income

1 all federal taxable income [arising from all sources in this]
2 state and all income from each transportation service wholly
3 within this state, from each service where the only lines of such
4 corporation used are those in this state, and such proportion of
5 revenue from each service where the facilities of such
6 corporation in this state and in another state or states are
7 used, for the taxable year with the modifications specified in
8 subsections 2 and 3 of section 143.431, as the mileage used over
9 the lines of such corporation in the state shall bear to the
10 total mileage used over the lines of such corporation. The
11 taxpayer may elect to [compute the portion of] apportion income
12 [from all sources within this state] in the following manner:

13 (1) The income [from all sources] apportioned to Missouri
14 shall be determined as provided;

15 (2) The amount of investment of such corporation on
16 December thirty-first of each year in this state in fixed
17 transportation facilities, real estate and improvements, plus the
18 value on December thirty-first of each year of any fixed
19 transportation facilities, real estate and improvements in this
20 state leased from any other railroad shall be divided by the sum
21 of the total amount of investment of such corporation on December
22 thirty-first of each year in fixed transportation facilities,
23 real estate and improvements, plus the value on December
24 thirty-first of each year, of any fixed transportation
25 facilities, real estate and improvements leased from any other

1 railroad. Where any fixed transportation facilities, real estate
2 or improvements are leased by more than one railroad, such
3 portion of the value shall be used by each railroad as the rental
4 paid by each shall bear to the rental paid by all lessees. The
5 income shall be multiplied by the fraction thus obtained to
6 determine the proportion to be used to arrive at the amount of
7 Missouri taxable income.

8 5. A corporation described in subdivision (3) of subsection
9 1 of section 143.441 shall include in its Missouri taxable income
10 one-half of the net income from the operation of a bridge between
11 this and another state. If any such bridge is owned or operated
12 by a railroad corporation or corporations, or by a corporation
13 owning a railroad corporation using such bridge, then the figures
14 for operation of such bridge may be included in the return of
15 such railroad or railroads; or if such bridge is owned or
16 operated by any other corporation which may now or hereafter be
17 required to file an income tax return, one-half of the income or
18 loss to such corporation from such bridge may be included in such
19 return by adding or subtracting same to or from another net
20 income or loss shown by the return.

21 6. A corporation described in subdivision (4) of subsection
22 1 of section 143.441 shall include in its Missouri taxable income
23 all federal taxable income [arising from all sources within this
24 state]. Income shall include revenue from each telephonic or
25 telegraphic service rendered wholly within this state; from each

1 service rendered for which the only facilities of such
2 corporation used are those in this state; and from each service
3 rendered over the facilities of such corporation in this state
4 and in other state or states, such proportion of such revenue for
5 the taxable year with the modifications specified in subsections
6 2 and 3 of section 143.431, as the mileage involved in this state
7 shall bear to the total mileage involved over the lines of said
8 company in all states. The taxpayer may elect to [compute the
9 portion of] apportion income [from all sources within this state]
10 in the following manner:

11 (1) The income [from all sources] apportioned to Missouri
12 shall be determined as provided;

13 (2) The amount of investment of such corporation on
14 December thirty-first of each year in this state in telephonic or
15 telegraphic facilities, real estate and improvements thereon,
16 shall be divided by the amount of the total investment of such
17 corporation on December thirty-first of each year in telephonic
18 or telegraphic facilities, real estate and improvements. The
19 income of the taxpayer shall be multiplied by fraction thus
20 obtained to determine the proportion to be used to arrive at the
21 amount of Missouri taxable income.

22 7. From the income determined in subsections 2, 3, 4, 5 and
23 6 of this section to be from all sources within this state shall
24 be deducted such of the deductions for expenses in determining
25 Missouri taxable income as were incurred in this state to produce

1 such income and all losses actually sustained in this state in
2 the business of the corporation.

3 8. [If a corporation derives only part of its income from
4 sources within] If a corporation apportions to Missouri less than
5 one hundred percent of its federal taxable income for the taxable
6 year with modifications specified in subsections 2 and 3 of
7 section 143.431, its Missouri taxable income shall only reflect
8 the effect of the following listed deductions to the extent
9 applicable to Missouri. The deductions are: (a) its deduction
10 for federal income taxes pursuant to section 143.171, and (b) the
11 effect on Missouri taxable income of the deduction for net
12 operating loss allowed by Section 172 of the Internal Revenue
13 Code. The extent applicable to Missouri shall be determined by
14 multiplying the amount that would otherwise affect Missouri
15 taxable income by the ratio for the year of the Missouri taxable
16 income of the corporation for the year divided by the Missouri
17 taxable income for the year as though the corporation had
18 [derived all of its income from sources within] one hundred
19 percent of its income apportioned to Missouri. For the purpose
20 of the preceding sentence, Missouri taxable income shall not
21 reflect the listed deductions.

22 9. Any investment funds service corporation organized as a
23 corporation or S corporation which has any shareholders
24 resided in this state shall be subject to Missouri income tax
25 as provided in this chapter.

1 143.811. 1. Under regulations prescribed by the director
2 of revenue, interest shall be allowed pursuant to section 32.069,
3 RSMo, and paid at the rate determined by section [32.065] 32.068,
4 RSMo, on any overpayment in respect of the tax imposed by
5 sections 143.011 to 143.996; except that, where the overpayment
6 resulted from the filing of an amendment of the tax by the
7 taxpayer after the last day prescribed for the filing of the
8 return, interest shall be allowed [and paid at the rate of six
9 percent per annum] pursuant to sections 32.068 and 32.069, RSMo.
10 With respect to the part of an overpayment attributable to a
11 deposit made pursuant to subsection 2 of section 143.631,
12 interest shall be paid pursuant to section 32.069, RSMo, thereon
13 at the rate in section [32.065] 32.068, RSMo, from the date of
14 the deposit to the date of refund. No interest shall be allowed
15 or paid if the amount thereof is less than one dollar.

16 2. For purposes of this section:

17 (1) Any return filed before the last day prescribed for the
18 filing thereof shall be considered as filed on such last day
19 determined without regard to any extension of time granted the
20 taxpayer;

21 (2) Any tax paid by the taxpayer before the last day
22 prescribed for its payment, any income tax withheld from the
23 taxpayer during any calendar year, and any amount paid by the
24 taxpayer as estimated income tax for a taxable year shall be
25 deemed to have been paid by him on the fifteenth day of the

1 fourth month following the close of his taxable year to which
2 such amount constitutes a credit or payment.

3 3. For purposes of this section with respect to any
4 withholding tax:

5 (1) If a return for any period ending with or within a
6 calendar year is filed before April fifteenth of the succeeding
7 calendar year, such return shall be considered filed April
8 fifteenth of such succeeding calendar year; and

9 (2) If a tax with respect to remuneration paid during any
10 period ending with or within a calendar year is paid before April
11 fifteenth of the succeeding calendar year, such tax shall be
12 considered paid on April fifteenth of such succeeding calendar
13 year.

14 4. If any overpayment of tax imposed by sections 143.011 to
15 143.996 is refunded within four months after the last date
16 prescribed (or permitted by extension of time) for filing the
17 return of such tax or within four months after the return was
18 filed, whichever is later, no interest shall be allowed under
19 this section on overpayment.

20 5. Any overpayment resulting from a carryback, including a
21 net operating loss and a corporate capital loss, shall be deemed
22 not to have been made prior to the close of the taxable year in
23 which the loss arises.

24 6. Any overpayment resulting from a carryback of a tax
25 credit, including but not limited to the tax credits provided in

1 section 253.557, RSMo, and section 348.432, RSMo, shall be deemed
2 not to have been made prior to the close of the taxable year in
3 which the tax credit was authorized. The commissioner of
4 administration shall, on an annual basis, estimate the amount of
5 any additional state revenue received pursuant to the provisions
6 of this subsection and shall transfer an equivalent amount to the
7 schools of the future fund created in section 313.822, RSMo.

8 144.190. 1. If a tax has been incorrectly computed by
9 reason of a clerical error or mistake on the part of the director
10 of revenue, such fact shall be set forth in the records of the
11 director of revenue, and the amount of the overpayment shall be
12 credited on any taxes then due from the person legally obligated
13 to remit the tax pursuant to sections 144.010 to 144.525, and the
14 balance shall be refunded to the person legally obligated to
15 remit the tax, such person's administrators or executors, as
16 provided for in section 144.200.

17 2. If any [tax,] penalty or interest has been paid more
18 than once, or has been erroneously or illegally collected, or has
19 been erroneously or illegally computed, such sum shall be
20 credited on any taxes then due from the person legally obligated
21 to remit the tax pursuant to sections 144.010 to 144.510, and the
22 balance, with interest as determined by section 32.065, RSMo,
23 shall be refunded to the person legally obligated to remit the
24 tax, but no such credit or refund shall be allowed unless
25 duplicate copies of a claim for refund are filed within three

1 years from date of overpayment.

2 3. If any tax was paid more than once, was incorrectly
3 collected, or was incorrectly computed, such sum shall be
4 credited on any taxes then due from the person legally obligated
5 to remit the tax pursuant to sections 144.010 to 144.510, or
6 refunded, with interest as determined by section 32.065, RSMo, to
7 the person legally obligated to remit the tax, only if duplicate
8 copies of a claim for refund are filed within three years from
9 date of overpayment and:

10 (1) Where the claim for refund is over one thousand
11 dollars, the person legally obligated to remit the tax
12 demonstrates to the satisfaction of the director of revenue that
13 all incorrectly collected or incorrectly computed amounts were or
14 will be refunded or credited to every purchaser that originally
15 paid the tax;

16 (2) Refunds under one thousand dollars may not exceed one
17 thousand dollars in the aggregate over any five year time frame;
18 or

19 (3) In lieu of subdivisions (1) and (2) of this subsection
20 and regardless of the amount of refund claimed, the person
21 legally obligated to remit the tax submits to the director
22 amended sales tax returns showing the correct amount of gross
23 receipts for each reporting period originally filed and proves to
24 the director's satisfaction that the tax originally reported and
25 remitted to the director was paid by such person claiming the

1 refund or credit and was not collected from purchasers.

2 The commissioner of administration shall, on an annual basis,
3 estimate the amount of additional state revenue resulting from
4 this provision and shall transfer an equivalent amount to the
5 schools of the future fund.

6 4. Every claim for refund must be in writing and signed by
7 the applicant, and must state the specific grounds upon which the
8 claim is founded. Any refund or any portion thereof which is
9 erroneously made, and any credit or any portion thereof which is
10 erroneously allowed, may be recovered in any action brought by
11 the director of revenue against the person legally obligated to
12 remit the tax. In the event that a tax has been illegally
13 imposed against a person legally obligated to remit the tax, the
14 director of revenue shall authorize the cancellation of the tax
15 upon the director's record.

16 [4.] 5. Notwithstanding the provisions of this section, the
17 director of revenue shall authorize direct-pay agreements to
18 purchasers which have annual purchases in excess of seven hundred
19 fifty thousand dollars pursuant to rules and regulations adopted
20 by the director of revenue. For the purposes of such direct-pay
21 agreements, the taxes authorized pursuant to chapters 66, 67, 92
22 and 94, RSMo, shall be remitted based upon the location of the
23 place of business of the purchaser.

24 313.820. 1. An excursion boat licensee shall pay to the

1 commission an admission fee of [two] three dollars for each
2 person embarking on an excursion gambling boat with a ticket of
3 admission. One dollar of such fee shall be deposited to the
4 credit of the gaming commission fund as authorized pursuant to
5 section 313.835[,]; notwithstanding any other provision of law to
6 the contrary, one dollar of such admission fee shall be deposited
7 in the schools of the future fund created pursuant to section
8 313.822; and one dollar of such fee shall not be considered state
9 funds and shall be paid to the home dock city or county. Subject
10 to appropriation, one cent of such fee deposited to the credit of
11 the gaming commission fund may be deposited to the credit of the
12 compulsive gamblers fund created pursuant to the provisions of
13 section 313.842. Nothing in this section shall preclude any
14 licensee from charging any amount deemed necessary for a ticket
15 of admission to any person embarking on an excursion gambling
16 boat. If tickets are issued which are good for more than one
17 excursion, the admission fee shall be paid to the commission for
18 each person using the ticket on each excursion that the ticket is
19 used. If free passes or complimentary admission tickets are
20 issued, the excursion boat licensee shall pay to the commission
21 the same fee upon these passes or complimentary tickets as if
22 they were sold at the regular and usual admission rate; however,
23 the excursion boat licensee may issue fee-free passes to actual
24 and necessary officials and employees of the licensee or other
25 persons actually working on the excursion gambling boat. The

1 issuance of fee-free passes is subject to the rules of the
2 commission, and a list of all persons to whom the fee-free passes
3 are issued shall be filed with the commission.

4 2. All licensees are subject to all income taxes, sales
5 taxes, earnings taxes, use taxes, property taxes or any other tax
6 or fee now or hereafter lawfully levied by any political
7 subdivision; however, no other license tax, permit tax,
8 occupation tax, excursion fee, or taxes or fees shall be imposed,
9 levied or assessed exclusively upon licensees by a political
10 subdivision. All state taxes not connected directly to gambling
11 games shall be collected by the department of revenue.

12 Notwithstanding the provisions of section 32.057, RSMo, to the
13 contrary, the department of revenue may furnish and the
14 commission may receive tax information to determine if applicants
15 or licensees are complying with the tax laws of this state;
16 however, any tax information acquired by the commission shall not
17 become public record and shall be used exclusively for commission
18 business.

19 313.822. A tax is imposed on the adjusted gross receipts
20 received from licensed gambling games authorized pursuant to
21 sections 313.800 to 313.850 at the rate of [twenty] twenty-two
22 percent. The taxes imposed by this section shall be returned to
23 the commission in accordance with the commission's rules and
24 regulations who shall transfer such taxes to the director of
25 revenue. All checks and drafts remitted for payment of these

1 taxes and fees shall be made payable to the director of revenue.

2 If the commission is not satisfied with the return or payment
3 made by any licensee, it is hereby authorized and empowered to
4 make an assessment of the amount due based upon any information
5 within its possession or that shall come into its possession.

6 Any licensee against whom an assessment is made by the commission
7 may petition for a reassessment. The request for reassessment
8 shall be made within twenty days from the date the assessment was
9 mailed or delivered to the licensee, whichever is earlier.

10 Whereupon the commission shall give notice of a hearing for
11 reassessment and fix the date upon which the hearing shall be
12 held. The assessment shall become final if a request for
13 reassessment is not received by the commission within the twenty
14 days. Except as provided in this section, on and after April 29,
15 1993, all functions incident to the administration, collection,
16 enforcement, and operation of the tax imposed by sections 144.010
17 to 144.525, RSMo, shall be applicable to the taxes and fees
18 imposed by this section.

19 (1) Two percent of the adjusted gross receipts shall be
20 deposited in the state treasury to the credit of the "Schools of
21 the Future Fund" which is hereby created in the state treasury.
22 Moneys deposited in this fund shall be considered the proceeds of
23 excursion boat gambling and state funds pursuant to article IV,
24 section 15 of the Missouri Constitution. All interest received
25 on the schools of the future fund shall be credited to the

1 schools of the future fund. Appropriation of the moneys
2 deposited into the schools of the future fund shall be used
3 solely for the purpose of fully funding state aid to public
4 schools pursuant to section 163.031, RSMo.

5 (2) The remaining twenty percent of the adjusted gross
6 receipts shall be distributed as follows:

7 (a) Each excursion gambling boat shall designate a city or
8 county as its home dock. The home dock city or county may enter
9 into agreements with other cities or counties authorized pursuant
10 to subsection 10 of section 313.812 to share revenue obtained
11 pursuant to this section. The home dock city or county shall
12 receive ten percent of the remaining twenty percent of the
13 adjusted gross receipts tax collections, as levied pursuant to
14 this section, for use in providing services necessary for the
15 safety of the public visiting an excursion gambling boat. Such
16 home dock city or county shall annually submit to the commission
17 a shared revenue agreement with any other city or county. All
18 moneys owed the home dock city or county shall be deposited and
19 distributed to such city or county in accordance with rules and
20 regulations of the commission. All revenues provided for in this
21 section to be transferred to the governing body of any city not
22 within a county and any city with a population of over three
23 hundred fifty thousand inhabitants shall not be considered state
24 funds and shall be deposited in such city's general revenue fund
25 to be expended as provided for in this section[.];

1 [(2)] (b) Ninety percent of the remaining [amount] twenty
2 percent of the adjusted gross receipts tax shall be deposited in
3 the state treasury to the credit of the "Gaming Proceeds for
4 Education Fund" which is hereby created in the state treasury.
5 Moneys deposited in this fund shall be considered the proceeds of
6 excursion boat gambling and state funds pursuant to article IV,
7 section 15 of the Missouri Constitution. All interest received
8 on the gaming proceeds for education fund shall be credited to
9 the gaming proceeds for education fund. Appropriation of the
10 moneys deposited into the gaming proceeds for education fund
11 shall be pursuant to state law.

12 [143.261. For every remittance to the
13 director of revenue made on or before the
14 date the remittance becomes due, the
15 employer, other than the United States and
16 its agencies, the state of Missouri and
17 political subdivisions thereof, may deduct
18 and retain the following percentages of the
19 total amount of tax withheld and paid in each
20 calendar year:

- 21 (1) Two percent of five thousand
22 dollars or less;
23 (2) One percent of amount collected in
24 excess of five thousand dollars and up to and
25 including ten thousand dollars;
26 (3) One-half percent of amount
27 collected in excess of ten thousand dollars.]

28 Section B. Because immediate action is necessary to ensure
29 that adequate funding is available to fully fund the school
30 foundation formula of this state, section A of this act is deemed
31 necessary for the immediate preservation of the public health,
32 welfare, peace, and safety, and is hereby declared to be an
33 emergency act within the meaning of the constitution, and section

1 A of this act shall be in full force and effect upon its passage
2 and approval.

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